

## DMR ADVISORY COUNCIL MEETING

September 15, 2004, 1:00 p.m.

### **DRAFT** Minutes

A meeting of the Department of Marine Resources' (DMR) Advisory Council (AC) was held on this date at the Department of Human Services Central Offices Conference Room, 442 Civic Center Drive, Augusta. AC members attending this meeting included **David Turner, - Vice Chair, Scott Tilton, Mike Danforth, Dana Temple, Larry Knapp, Ralph Smith, Al West and Blair Pyne**, Council members **Dana Rice, Sr., Rod Mitchell, Craig Pendleton, David Pecci, Bill Sutter and Allyson Jordan** were unable to attend. Department staff included Deputy Commissioner David Etnier, Col. John Fessenden, Deirdre Gilbert, Terry Stockwell, Vanessa Levesque, Carl Wilson and L. Churchill. Other attendees included Susan Jones (Commercial Fisheries News), Dr. Win Watson (UNH), and Pat and Jack Percy (Popham Beach).

### 1. Welcome

Vice Chair David Turner called the meeting to order shortly after 1:00 pm.

### 2. Approval of minutes (Handout)

**Motion:** (B. Pyne, A. West) *Unanimous. Motion to approve the minutes of the meeting held August 9, 2004 as written.*

### 3. Regulations - Action (voting)

#### **Chapter 25.93(F) Exit Ratios for Limited Entry Zones – Zone E (Handout)**

Terry Stockwell provided a brief history of the rulemaking and procedures the zone council must follow.

**Motion:** (B. Pyne, L. Knapp) *Motion to accept the rulemaking for Chapter 25.93(F) as written.*

Discussion topics: T. Stockwell explained that the entry has been wide open and therefore no reduction has been seen. This action will slow down the students' time in the program. The council may also change it. Dep. Comm. Etnier explained that according to the regulations once the number of licenses in the zone reaches the 1997 threshold or reduced about 30% then the zone reverts to a 1:1 ratio. B. Pyne added that over the years we've seen new license entrants result in a net gain at first; Zone D for example has a 5:1 exit ratio.

**Motion continued:** *Unanimous.*

#### **Chapter 34.10(1)(B)&(C) Maine Groundfish Management Plan (Handout)**

L. Churchill gave an update on the conference call by Col. Fessenden, Dep. Comm. Flagg and AC member Craig Pendleton on his concerns from last meeting when the rulemaking was tabled. Col. Fessenden reviewed Craig's concern about vessel trip limits for cod (Ch 34.10(1)(C)(6)); without a vessel trip limit and no federal permit the fishery was wide open in state waters. Last year this rule was implemented to match the federal limits instead of leaving it wide open. It does not impact the federal permit holder. Previously there were no state restrictions and this rulemaking as proposed removes the haddock restrictions to continue to match the federal rules now in place. This is better than having no rules in state waters at all

and applies to fish taken in state waters only. The burden is on enforcement to prove where fish were caught and a person would have to be caught fishing in state waters.

**Motion:** (B. Pyne, D. Temple) *Motion to accept the rulemaking in Chapter 34.10 as written.*

Discussion topics: B. Pyne: Better to have some regulations than no limits on state water fishing. S. Tilton: Is it illegal to capture the federal limit then add the state limit? B. Pyne: Yes. It is a possession issue and you have to abide by the federal permit limits.

**Motion continued:** *Unanimous.*

#### 4. Special License

**Dr. Win Watson, University of New Hampshire (UNH), Durham, lobster research** (Handout)

Dr. Watson: In previous studies on the number of degree days and its impact on lobster egg development have brought into question as to whether it impacts egg development. This proposal would place temperature loggers on 30 egg bearing lobsters to be tracked by fishermen equipped with devices to read the temperature loggers when the tagged lobster is captured to gather a more accurate temperature profile during the lobster's movements. Also, 5-6 eggs would be preserved from each captured tagged lobster for scientists to "stage" the egg development. Handling would be minimal: 1-2 minutes to attach a logger; and 1-2 minutes when captured to download the data. This study is also being conducted in 3 other locations in New Hampshire and in federal waters. Persons involved are ~5 fishermen, staff from UNH and the Lobster Conservancy in Friendship run by Diane Cowan.

Questions/Suggestions/Responses: Getting the word out to fishermen about contact information. Returning loggers if the lobsters venture a long way from the Friendship area. What is the purpose?

Dr. Watson: the lobsters may be moving to enhance the rate at which eggs are incubated or they may be following temperatures to hatch the eggs at a particular time to delay hatching to ensure sufficient feed is around. The patterns as we know them are confusing based on their movements as the eggs hatch at the same time no matter what they seem to do. The one consistency is that they all spent some time in temperatures less than 5°C. The big picture question is "Where are they recruited?"

All fishermen and staff will be trained on the tagging. Fishermen who capture long ranging lobsters usually provide latitude/longitude for the capture point or it is asked for. Next, it is hoped to gain better understanding of where the stocks are located and where the recruits are originating. A very interesting example is George's Bank lobsters.

**Motion:** (B. Pyne, A. West) *Unanimous. Motion to approve the Special License request from Dr. Watson, UNH for his lobster research.*

*Discussion: none*

**Motion continued:** *Unanimous.*

#### 5. Other Business

L. Churchill reviewed the upcoming rulemakings and scheduled hearings. Members also discussed upcoming meeting dates. Members agreed to not meet next month, October 20th, as there would be only one voting item that could be readied to mail to the week before the meeting per the bylaws. The next scheduled date on Nov. 17th is also a bad date as 5 members indicated they would be involved with NEFMC meetings that day, as would the Commissioners and unable to attend. Nov 10th was suggested as an alternative. [However, after the meeting it was determined that this is the week of ASMFC's annual meeting and the Commissioners' and likely several members unable to attend an AC meeting. An alternate date will be set.]

Dep. Comm. Etnier announced that a discussion on rulemaking procedures would be on the agenda in the next meeting or two.

Ralph Smith asked why the Department did not include the country of origin labeling requirements in the recent rulemaking. He said his tags would be out of compliance September 30<sup>th</sup> with a USDA/USDC regulation. He said the Department should have been notifying dealers about this.

L. Churchill: The Department could not put USDA's proposed rules into the Department's regulations when it was not yet finalized by USDA. At the time of the shellfish rulemaking [updating the Department regulations with FDA's rules] notices of the then USDA proposed rulemaking were made available during the public hearings.

D. Temple: Country of origin labeling affects both farmed and wild harvested food products. His company has followed this closely and has been writing letters to not have this move forward. Person affects right now are persons selling over \$60K of vegetables per month. This is not in effect now but must push hard to repeal. This is not a written law yet.

R. Smith said out of state clients are demanding this is supposed to be done.

D. Temple: They are misinformed. This is caught in a disagreement between USDA and USDC.

S. Tilton requested that the AC hold fewer meetings and schedule longer meeting times in a day instead. Start earlier in the day.

D. Temple: The relative frequency of the meetings is better to stay up on task with the issues. A regular meeting basis is important.

L. Churchill reviewed current meeting time/dates reasoning: availability of Commissioner is best on the day when the Governor's Office holds its cabinet meetings, which are always Wednesday mornings. The AC meeting has generally been scheduled back to back with the Lobster Advisory Council meetings held in the evenings, which is a convenience for the Chair of the LAC who serves on the AC also. Larry Knapp said he didn't care as chair and would meet at another time. Long meetings days when the Legislature is in session would not work well for the Commissioner to be able to attend the AC meeting. There is a 120-day time limit on active rulemakings; once this time frame has passed the rulemaking would have to start over if the meetings were not held that frequently. It was noted that the AC did not meet between April and August [5 meetings have been held out of 9 months in 2004].

Dep. Comm. Etnier: A future agenda needs to continue discussing the Long Range Plan.

B. Pyne asked if everyone was seeing a decrease in lobster landings and a general response was us for both state wide and throughout New England.

L. Knapp asked that the cod limit should match the federal limit of 800 pounds or be 1,000 pounds. It was suggested that he discuss the conservation reasons with Lew Flagg in conjunction with last year's rulemaking and compliance with the lawsuit agreements.

Col. Fessenden announced the first meeting of the Commercial Fishing Safety Council to be held September 28 at 5pm at this location.

**Motion:** (B. Pyne, R. Smith) Unanimous. The Council voted to adjourn.

The next scheduled meeting Wednesday, October 20, 2004 is cancelled. Members will be canvassed for the next meeting date.

